

# SENATE BILL 244

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(PRE-FILED)

4lr0195  
CF HB 238

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By: **Chair, Finance Committee (By Request – Departmental – Health)**

Requested: September 13, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 26, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Public Health – Clean Indoor Air Act – Revisions**

3 FOR the purpose of prohibiting vaping in certain indoor areas and places of employment  
4 and certain mass transportation; requiring that certain signs be posted and  
5 maintained in a certain manner in each indoor area open to the public and each  
6 public entrance to an indoor area where smoking or vaping is prohibited under the  
7 Clean Indoor Air Act; ~~altering the exemption from the Clean Indoor Air Act for~~  
8 ~~certain retail tobacco businesses~~; requiring the Maryland Department of Health to  
9 convene a workgroup to study the issuance of alcoholic beverages licenses to  
10 tobacconists; prohibiting a local alcoholic beverages license from being issued to a  
11 tobacconist during a certain period of time; and generally relating to the Clean  
12 Indoor Air Act.

13 BY repealing and reenacting, with amendments,  
14 Article – Health – General  
15 Section 24–501, 24–504, 24–505, 24–506, and 24–508(c)(2)  
16 Annotated Code of Maryland  
17 (2023 Replacement Volume)

18 BY repealing  
19 Article – Health – General  
20 Section 24–509  
21 Annotated Code of Maryland  
22 (2023 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Labor and Employment  
 3 Section 5–608(b)(1)  
 4 Annotated Code of Maryland  
 5 (2016 Replacement Volume and 2023 Supplement)

6 BY renumbering  
 7 Article – Health – General  
 8 Section 24–510 and 24–511  
 9 to be Section 24–509 and 24–510, respectively  
 10 Annotated Code of Maryland  
 11 (2023 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 13 That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 24–501.

16 (a) In this subtitle the following words have the meanings indicated.

17 (b) “Cannabis” has the meaning stated in [§ 5–101 of the Criminal Law Article]  
 18 **§ 1–101 OF THE ALCOHOLIC BEVERAGES AND CANNABIS ARTICLE.**

19 (c) **“ELECTRONIC SMOKING DEVICE” HAS THE MEANING STATED IN §**  
 20 **16.7–101 OF THE BUSINESS REGULATION ARTICLE.**

21 [(c)] (D) “Employee” has the meaning stated in § 5–101 of the Labor and  
 22 Employment Article.

23 [(d)] (E) “Employer” has the meaning stated in § 5–101 of the Labor and  
 24 Employment Article.

25 [(e)] (F) “Environmental smoke” means [the]:

26 (1) **THE** complex mixture formed from the escaping smoke of a burning  
 27 tobacco, cannabis, or hemp product or smoke exhaled by the smoker; **OR**

28 (2) **THE COMPLEX MIXTURE FORMED FROM THE ESCAPING AEROSOL**  
 29 **OF AN ELECTRONIC SMOKING DEVICE OR EXHALED AS ELECTRONIC SMOKING**  
 30 **DEVICE AEROSOL.**

31 (G) **“HEMP” HAS THE MEANING STATED IN § 14–101 OF THE AGRICULTURE**  
 32 **ARTICLE.**

1           **[(f)] (H)**        “Indoor area open to the public” means:

2                   (1)     An indoor area or a portion of an indoor area accessible to the public by  
3 either invitation or permission; or

4                   (2)     An indoor area of any establishment licensed or permitted under the  
5 Alcoholic Beverages and Cannabis Article for the sale or possession of alcoholic beverages.

6           **[(g)] (I)**        “Place of employment” has the meaning stated in § 5–101 of the Labor  
7 and Employment Article.

8           **[(h)] (J)**        “Smoking” means the burning of a lighted cigarette, cigar, pipe, or any  
9 other matter or substance containing, wholly or in part, tobacco, cannabis, or hemp.

10           **(K)**        **“TOBACCO PRODUCT” HAS THE MEANING STATED IN § 13–1001 OF THIS**  
11 **ARTICLE.**

12           **(L)**        **“VAPING” MEANS THE USE OF:**

13                   **(1)**     **AN ELECTRONIC SMOKING DEVICE; OR**

14                   **(2)**     **ANY DEVICE THROUGH WHICH THE USER INHALES AEROSOL**  
15 **CONTAINING ~~HEMP OR CANNABIS~~ TOBACCO, CANNABIS, OR HEMP.**

16 24–504.

17           Except as provided in § 24–505 of this subtitle, beginning on February 1, 2008, a  
18 person may not smoke **OR VAPE** in:

19                   (1)     An indoor area open to the public;

20                   (2)     An indoor place in which meetings are open to the public in accordance  
21 with Title 3 of the General Provisions Article;

22                   (3)     A government–owned or government–operated means of mass  
23 transportation including buses, vans, trains, taxicabs, and limousines; or

24                   (4)     An indoor place of employment.

25 24–505.

26           This subtitle does not apply to:

27                   (1)     Private homes, residences, including residences used as a business or  
28 place of employment, unless being used by a person who is licensed or registered under

1 Title 5, Subtitle 5 of the Family Law Article to provide child care, and private vehicles,  
2 unless being used for the public transportation of children, or as part of health care or child  
3 care transportation;

4 (2) A hotel or motel room rented to one or more guests as long as the total  
5 percent of hotel or motel rooms being so used does not exceed 25%;

6 (3) A retail tobacco business that is a sole proprietorship, limited liability  
7 company, corporation, partnership, or other enterprise, in which:

8 (i) The primary activity is the retail sale of tobacco products and  
9 accessories; and

10 (ii) The sale of other products is incidental;

11 (4) Any facility of a manufacturer, importer, wholesaler, or distributor of  
12 tobacco products or of any tobacco leaf dealer or processor in which employees of the  
13 manufacturer, importer, wholesaler, distributor, or processor work or congregate; or

14 (5) A research or educational laboratory for the purpose of conducting  
15 scientific research into the health effects of [tobacco] ENVIRONMENTAL smoke.

16 24–506.

17 (a) Signs that state “Smoking **OR VAPING** Permitted in This Room” shall be  
18 prominently posted and properly maintained where smoking **OR VAPING** is allowed under  
19 § 24–505(2) of this subtitle.

20 **(B) SIGNS THAT STATE “NO SMOKING OR VAPING” SHALL BE**  
21 **CONSPICUOUSLY POSTED AND PROPERLY MAINTAINED IN EACH INDOOR AREA OPEN**  
22 **TO THE PUBLIC AND EACH PUBLIC ENTRANCE TO AN INDOOR AREA WHERE SMOKING**  
23 **OR VAPING IS PROHIBITED UNDER THIS SUBTITLE.**

24 **[(b)] (C)** The signs shall be posted and maintained by the owner, operator,  
25 manager, or other person having control of the area.

26 **[(c)] (D)** The letters on the signs shall be at least 1 inch in height.

27 24–508.

28 (c) (2) It is an affirmative defense to a complaint brought against a person for  
29 a violation of a provision of this subtitle or a regulation adopted under this subtitle that the  
30 person or an employee of the person:

31 (i) Posted a “No [Smoking] **SMOKING OR VAPING**” sign as  
32 required under § 24–506 of this subtitle;

1 (ii) Removed all ashtrays and other smoking **OR VAPING**  
2 paraphernalia from all areas where smoking is prohibited; and

3 (iii) If the violation occurred in a bar, tavern, or restaurant:

4 1. Refused to seat or serve any individual who was smoking  
5 **OR VAPING** in a prohibited area; and

6 2. If the individual continued to smoke **OR VAPE** after an  
7 initial warning, asked the individual to leave the establishment.

8 [24–509.

9 (a) Within 90 days from the receipt of an application for a waiver and the date  
10 that all conditions for the application for a waiver required in the regulations adopted by  
11 the Secretary have been satisfied, the health officer of a county may grant a waiver from  
12 the application of a specific provision of this subtitle, if prior to the granting of the waiver,  
13 the applicant for a waiver establishes in writing:

14 (1) Compliance with a specific provision of this subtitle would cause undue  
15 financial hardship; or

16 (2) The existence of other factors that would render compliance  
17 unreasonable.

18 (b) The Secretary may impose conditions or restrictions on a waiver granted  
19 under subsection (a) of this section to:

20 (1) Minimize the adverse effects of the waiver on individuals involuntarily  
21 exposed to secondhand smoke; and

22 (2) Ensure that the waiver is consistent with the purposes of this subtitle.

23 (c) The Secretary shall adopt regulations necessary to implement this section.

24 (d) (1) A waiver may not be granted under subsection (a) of this section on or  
25 after January 31, 2011.

26 (2) A waiver granted under subsection (a) of this section terminates on  
27 January 31, 2011.]

28 **Article – Labor and Employment**

29 5–608.

1           **(b) (1)** The Department shall adopt regulations that prohibit environmental  
2 [tobacco] smoke, as defined in § 24–501 of the Health – General Article, in indoor places of  
3 employment not normally open to the general public.

4           **SECTION 2. AND BE IT FURTHER ENACTED, That:**

5           **(a)** The Maryland Department of Health shall convene a workgroup to study the  
6 issuance of alcoholic beverages licenses to tobacconists.

7           **(b)** The workgroup shall include:

8                   **(1)** two Senators designated by the President of the Senate;

9                   **(2)** two Delegates designated by the Speaker of the House;

10                   **(3)** one representative from the Alcohol, Tobacco, and Cannabis  
11 Commission;

12                   **(4)** one representative from the Maryland Department of Health; and

13                   **(5)** one representative from a cigar retailers trade association.

14           **(c)** On or before July 1, 2025, the workgroup shall report its findings and  
15 recommendations to the General Assembly in accordance with § 2–1257 of the State  
16 Government Article.

17           **SECTION 3. AND BE IT FURTHER ENACTED, That a local alcoholic beverages**  
18 **license may not be issued to a tobacconist from July 1, 2024, to July 1, 2026, both inclusive.**

19           **SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That Section(s) 24–510 and**  
20 **24–511 of Article – Health – General of the Annotated Code of Maryland be renumbered to**  
21 **be Section(s) 24–509 and 24–510, respectively.**

22           **SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
23 **July 1, 2024.**